

The restriction requirement was discussed. The Examiner maintained the restriction requirement on the basis that circular ball bags and football shaped ball bags were separately classifiable in the art. As such, the restriction requirement is to remain in the Application.

The prior art United States Patents 5,839,577 to Friedler and DES 375,626 to Eaton were discussed. The Examiner maintained his position that Fig. 4 of United States Patent DES 375,626 to Eaton disclosed a pocket and, as such, that a ball bag having a pocket was anticipated by the combination of United States Patents to Friedler and DES 375,626 under 35 U.S.C. 103.

The Examiner recommended that the claims be further amended to clarify the structural arrangement of the carrying handle as illustrated in Fig. 1 and to provide further structure for defining the fastening means 50 and the location thereof relative to the carrying handle 60. Although proposed amendatory language was discussed, no agreement was reached on amendatory claim language.

Claims

Claims 1 through 25 are pending in this Application. The allowance of Claims 1 through 17 was earlier withdrawn due to the Examiner's subsequent determination that the claim language

of then pending claims 1 through 22 were still indefinite under 37 U.S.C 112, second paragraph.

Restriction Requirement

In the Office action dated December 30, 2003, the Examiner imposed a restriction requirement under 35 U.S.C. 121. In imposing the restriction requirement, the Examiner states as follows:

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I, Fig. 1;

Group II, Fig. 6.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Currently, 1, 18 and 21 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon including any claims subsequently added. An

argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, Applicant must indicate which are readable upon the elected species. MPEP §809.02(a).

Should Applicant traverse on the ground that the species are not patentably distinct, Applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of

the invention to be examined even though the requirement be traversed (37 CFR 1.143).

In order to be responsive, Applicant elects to prosecute the species of the claimed invention of Group I, Fig. 1. The claims which read on the Group I, Fig. 1 species are Claims 1-5 and 7 Through 25. This election is made without traverse.

The single claim which reads on the withdrawn Group II, Fig. 6 species is claim 6.

It is noted that the Examiner agrees that currently claims 1, 18, 21 are generic.

Amendment of Specification

As discussed below, independent claims 1, 18 and 21 have been amended in accordance with the discussion with the Examiner which occurred during the phone interview on February 23, 2004. Fig. 3 of the drawing illustrated a fastening means 50 which is in the form of a zipper 52 having an elongated length and narrow width. In order to conform the description of Fig. 3 in the Specification with Fig. 3 as illustrated in the drawing, the paragraph commencing at line 24, page 14 and ending at line 5, page 15 of the Specifications was amended as follows:

In the embodiments of Figs. 1 and 2, the opening 38 includes a fastening member, shown generally as arrow

50, which in this embodiment is a zipper 52. As shown in Fig. 3, the fastening means 50 is in the form of a zipper 52 having an elongated length defining the length of the opening 38 and a narrow width defining the width of the opening 38, which narrow width is less than the elongated length, and the narrow width defining the opening width is substantially perpendicular to the elongated length defining the opening length. The fastening member 50, or zipper 52, has an open position and a closed position. The fastening member 50, generally, and the zipper 52, specifically in this embodiment, operatively connected to the opening 38 and is adapted to make the opening 38 an unsecured opening when the zipper 52 is in an open position. The zipper 52 when in the closed position defines a secured opening, that is an athletic or other ball inserted therein is retained within the interior of the outer member 34 and cannot fall out of or be removed from the outer member 34 of bag 30 when the zipper is closed.

The amendatory language in the Specification, which is underlined, also provides an antecedent basis for the amendatory language of claims 1, 18 and 21 discussed below.

Amendment of Claims 1 through 25

As noted above, during the phone interview with the Examiner, the Examiner recommended that the claims be further amended to clarify the structural arrangement of the carrying handle as illustrated in Fig. 1 and to provide further structure for defining the fastening means 50 and the location thereof relative to the carrying handle 60.

Claims 1, 18 and 21 have been amended using substantially the same amendatory language. Claim 1, discussed below, is exemplary of the amendatory language.

Specifically, claim 1 was amended at line 12 and line 13 to delete the word "rigidly" and replacing the same with -- operatively--and deleting "said first strap member (64)" such that the claim now recites:

said second end (70) being operatively
connected to and terminating in a moveable
connecting member (76)

which conforms the claim language to the illustration shown in Fig. 1 of the drawing.

Also, claim 1 was amended at line 13 to further recite that the first strap member (64) terminates in a moveable connecting member (76) which conforms the claim language to the illustration shown in Fig. 1 of the drawing.

Further, line 18 of claim 1 was amended to insert the word "moveable" before the term "connecting member (76)" such that the claim now reads -- said moveable connecting member (76)--for consistency of language.

In addition, claim 1 at line 21 and 22 has been amended to add -- and relative to said outer member (34)-- such that the claim now recites that:

wherein said connecting member (76) and said second end (79) of said second strap member (90) are moveable relative to each other and relative to said outer member (34);

which conforms the claim language to the illustration shown in Fig. 1 of the drawing and to the amendment made to the Specification as discussed above.

In addition, claim 1 has been amended at line 26 to provide further structure defining the fastening member (50), the specific amendatory language being as follows:

and wherein said fastening member (50) has an elongated length defining the length of the opening (38) and a narrow width defining the width of the opening (38) which narrow width is less than the elongated length and wherein said narrow width defining the opening width is substantially perpendicular to the elongated length defining the opening length,

which conforms the claim language to the illustration shown in Fig. 1 of the drawing and to the amendment made to the Specification as discussed above.

Similar amendatory language has been added at the appropriate locations in independent claims 18 and 21.

Applicant has made a good faith effort to amend independent claims 1, 18 and 21 in accordance with the Examiner's recommendations that the claims be further amended to clarify the structural arrangement of the carrying handle as illustrated in Fig. 1 and to provide for the structure for defining the fastening means (50) and the location thereof relative to the carrying handle (60).

With the above amendments of claims 1, 18 and 21, the structural arrangement of the carrying handle as claimed has been clarified to conform with the structure of the handle as illustrated in Fig. 1 and the structure for defining the fastening means (50) and the location thereof relative to the carrying handle (60) been clarified to conform with the structure as illustrated in Fig. 1.

Applicant has amended dependant claims 24 and 25 to make the same more definite and to recite that the elongated carrying strap (492) illustrated in Fig. 14 is configured to form at least one of a pack sac and knapsack.

Appropriate language supporting this amendment to claims 24 and 25 and providing an antecedent basis for the amendatory language is set forth in the Specification at lines 1 through 5 at page 19 and in Fig. 14 of the drawing.

For all of the above reasons, all of the claims are now definite and particularly point out and distantly claim the subject matter which Applicant regards as the invention.

Summary

Claims 1, 18 and 21 have been amended, as discussed above, and are now definite and particularly point out and distantly claim the subject matter which Applicant regards as the invention.

Claims 1, 18 and 21 are verily believed to define patentable subject matter over the art of record. Amended dependant claims 24 and 25 are verily believed to also define patentable subject matter over the art of record. As such, it is Applicant's position that generic claims 1, 18 and 21 are allowable.

As such, Applicant request that the Examiner allow claim 6 which covers the additional species because claim 6 is written in dependent form and otherwise includes all of the limitations of an allowable generic claim as provided by 37 CFR 1.141.

For all of the above reasons, all of the claims 1 through 25 pending in this Application are verily believed to define patentable subject matter.

If the Examiner has further objections to the claim language such that further modification to the claim language would overcome such objections of the Examiner, the Examiner is respectfully requested to call the undersigned for

the purposes of conducting a phone interview so that agreement may be reached on wording acceptable to the Examiner.

Respectfully submitted,



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